

1 BILL NO. S-85-12-*18*
2 (AS AMENDED)

3
4 SPECIAL ORDINANCE NO. S-246-85

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ORDINANCE AUTHORIZING THE CITY OF
FORT WAYNE TO ISSUE ITS CITY OF FORT WAYNE, INDIANA
FLOATING RATE WEEKLY DEMAND INDUSTRIAL DEVELOPMENT
REVENUE BONDS (WAYNE COLISEUM PROJECT) SERIES 1985
AND APPROVING OTHER ACTIONS IN RESPECT THERETO.

WHEREAS, the City of Fort Wayne, Indiana is a "unit" as such is defined by Indiana Law and is authorized by 36-7-11.9-1 and 36-7-12-1 et seq (the Act) and has established a Department of Economic Development known as the Fort Wayne Economic Development Commission, and further is authorized by the Act to issue bonds for the purposes described in the Act; and

WHEREAS, the Fort Wayne Economic Development Commission has rendered its project report for the Wayne Coliseum Project regarding the financing of proposed economic development facilities for Wayne Coliseum Limited Partnership and the Allen County Plan Commission has commented favorably thereon; and

WHEREAS, the Fort Wayne Economic Development Commission conducted a public hearing on December 5, 1985, and also adopted a Resolution on December 5, 1985, which Resolution has been transmitted to this Common Council, finding that the financing of certain economic development facilities for Wayne Coliseum Limited Partnership complies with the purposes and provisions of the Act and that such financing will be of benefit to the health and welfare of the City of Fort Wayne and its citizens, and further finding as follows:

- a. The financing will not create an unjustified competitive disadvantage with other companies within the area;
- b. The financing will stimulate the local economy;
- c. The financing will result in creation or retention of a significant number of jobs; and
- d. The project being financed would not be undertaken without tax exempt financing; and

1 e. The Economic Development Commission considered the issue
2 of adverse competitive effect and, based on special findings of
3 fact set forth in the resolution transmitted hereto, that the
4 facilities would not have an adverse competitive effect.

5 WHEREAS, the Fort Wayne Economic Development Commission has
6 approved and recommended the adoption of this form of Ordinance
7 by this Common Council and has approved the substantially final
8 form of and has transmitted for approval by the Common Council
9 the Loan Agreement, Indenture of Trust, Mortgage, Bond Purchase
10 Agreement, Preliminary Official Statement, and form of Bonds.

11 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE
12 CITY OF FORT WAYNE, INDIANA THAT:

13 SECTION 1. It is hereby found that the financing of the
14 economic development facilities referred to in the Loan
15 Agreement, Indenture of Trust, Mortgage, Bond Purchase Agreement,
16 Preliminary Official Statement, and Bonds approved by the Fort
17 Wayne Economic Development Commission and presented to the Common
18 Council, the issuance and sale of the revenue bonds, to be used
19 for the acquisition and construction of the economic development
20 facilities constituting the project and the assigning of a
21 security interest in the Loan Agreement and all proceeds derived
22 from the Loan Agreement to the Trustee complies with the purposes
23 and provisions of I.C. 36-7-11.9-1 and 36-7-12 and will be of
24 benefit to the health and welfare of the City of Fort Wayne and
25 its citizens.

26 SECTION 2. The economic development facilities will consist
27 of acquisition, construction, reconstruction and equipping of
28 certain manufacturing and warehousing facilities located at 2201
29 S. Coliseum Blvd. in Allen County, Indiana, for use by prospec-
30 tive tenants of the applicant and manufacturing, warehousing and
31 distribution of goods and ancillary services, together with refi-
32 nancing existing tax-exempt indebtedness on the facilities (the

1 "Project").

2 SECTION 3. At the public hearing held by the Fort Wayne
3 Economic Development Commission, the Commission considered
4 whether the economic development facilities would have an adverse
5 competitive effect on any similar facilities located in the City
6 of Fort Wayne, and found, based on special findings of fact set
7 forth in the Resolution transmitted hereto, that the facilities
8 would not have an adverse competitive effect. This Common
9 Council hereby confirms the findings set forth in the
10 Commission's Resolution, and concludes that the economic develop-
11 ment facilities will not have an adverse competitive effect on
12 any other similar facilities in the City of Fort Wayne, and the
13 facilities will be of benefit to the health and welfare of the
14 citizens of the City of Fort Wayne.

15 SECTION 4. The substantially final forms of the Loan
16 Agreement, Indenture of Trust, Mortgage, Bond Purchase Agreement,
17 Preliminary Official Statement, and Bonds, approved by the Fort
18 Wayne Economic Development Commission are hereby approved and all
19 such documents (herein collectively referred to as the "Financing
20 Agreement" referred to in I.C. 36-7-11.9 and 36-7-12), are hereby
21 approved, and all such documents shall be incorporated herein by
22 reference and shall be inserted in the minutes of the Common
23 Council and kept on file by the Clerk. In accordance with provi-
24 sions of I.C. 36-1-5-4 two (2) copies of all such documents are
25 on file in the office of the Clerk for public inspection.

26 SECTION 5. The City of Fort Wayne, Indiana shall issue its
27 City of Fort Wayne, Indiana Floating Rate Weekly Demand
28 Industrial Development Revenue Bonds, (Wayne Coliseum Project)
29 Series 1985, in the total principal amount of not to exceed
30 \$6,200,000.00, maturing, subject to prior redemption, on December
31 1, 2015 and subject to mandatory or optional redemption or
32 repurchase on the demand of the holder thereof as set forth in

1 the Bonds, Indenture of Trust and Bond Purchase Agreement, for
2 the purpose of procuring funds to pay the cost of acquisition and
3 construction of the economic development facilities as more par-
4 ticularly set out in the Loan Agreement, Indenture of Trust, and
5 Bond Purchase Agreement incorporated herein by reference, which
6 Bonds will be payable as to principal, premium, if any, and
7 interest from payments made by Wayne Coliseum Limited Partnership
8 under the Loan Agreement or as provided in the Letter of Credit
9 as provided for in the above-described documents. The Bonds will
10 be sold to E. F. Hutton & Company Inc. as Underwriter, New York,
11 New York, in fully registered form and may be assigned and trans-
12 ferred pursuant to the Bond Purchase Agreement, Bonds, and
13 Indenture of Trust; payment of principal and interest is payable
14 in lawful money of the United States of America to the Trustee.
15 The Bonds shall never constitute a general obligation of, an
16 indebtedness of, or a charge against the general credit of the
17 City of Fort Wayne, nor are the Bonds payable in any manner from
18 revenues raised by the taxing power of the City of Fort Wayne.

19 SECTION 6. The Mayor and Clerk are authorized and directed
20 to sell the Bonds to the purchasers thereof at a rate of interest
21 as described in the Bonds and the Indenture of Trust, with the
22 proviso that the interest rate may be converted to a fixed
23 interest rate under terms and provisions contained in the Bonds
24 and the Indenture of Trust, and further provided that in no event
25 will the interest rate borne by the Bonds exceed 18% per annum.

26 SECTION 7. The Mayor and Clerk are authorized and directed
27 to execute, attest, affix or imprint by any means the City seal
28 to the documents constituting the Financing Agreement approved
29 herein on behalf of the City and any other documents which may be
30 necessary or desirable to consummate the transaction, including
31 but not limited to the Official Statement, the Indenture, the
32 Inducement Letter, the Loan Agreement, the Letter of Credit and

1 the Bonds, the Mortgage, and such other documents as authorized
2 herein and may approve such other changes in the Loan Agreement,
3 the Indenture, the Bond Purchase Agreement, the Inducement
4 Letter, and such other documents as they may deem necessary or
5 advisable, including the initial interest rate. The signatures
6 of the Mayor and Clerk on the Bonds may be facsimile signatures.
7 The Clerk is authorized to arrange for delivery of the Bonds to
8 the Trustee, payment for the Bonds will be made to the Trustee
9 named in the Bond Purchase Agreement and, after such payment, the
10 Bonds will be delivered to E. F. Hutton & Company Inc., as
11 Underwriter. Payment for the Bonds shall be at a purchase price
12 of not less than 95% of the principal amount of the Bonds, the
13 actual price to be approved by the Mayor and Clerk. The Bonds
14 shall be initially dated as of the date of issuance or the date
15 of the first authentication and delivery as designated by the
16 Mayor, except as otherwise provided in the Indenture of Trust.
17 Pursuant to the Indenture the City hereby authorizes the Mayor,
18 at the time of closing, to appoint the Remarketing Agent,
19 Indexing Agent, Paying Agent, Trustee and/or Co-Trustee, and
20 Registrar for the Bonds.

21 The Preliminary Official Statement and the final Official
22 Statement are hereby authorized to be distributed in the manner
23 and form as is approved by the City Attorney.

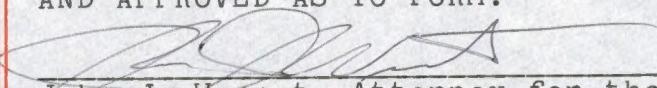
24 SECTION 8. The Bonds herein are issuable in initial denomina-
25 tions of \$100,000.00 or integral multiples thereof, except as
26 provided for in the Indenture upon conversion to a fixed interest
27 rate, at which time the Bonds shall be issuable in denominations
28 of \$5,000.00 or integral multiples thereof.

29 SECTION 9. The provisions of this Ordinance and the Bond
30 Purchase Agreement shall constitute a contract binding between
31 the City of Fort Wayne and the holders of the City of Fort Wayne,
32 Indiana Floating Rate Weekly Demand Industrial Development

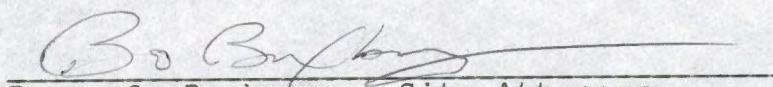
1 Revenue Bonds (Wayne Coliseum Project) Series 1985 and after the
2 issuance of said Bonds, this Ordinance shall not be repealed or
3 amended in any respect which would adversely affect the rights of
4 such holders so long as said Bonds or the interest thereon
5 remains unpaid.

6 SECTION 9. This Ordinance shall be in full force and effect
7 from and after its passage and signing by the Mayor.
8

9 COUNCILMAN

10 ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION
11 AND APPROVED AS TO FORM.


12 John J. Wernet, Attorney for the
13 Fort Wayne Economic Development Commission
14 Dated this 12 day of December, 1985.

15 APPROVED AS TO FORM AND LEGALITY.


16 Bruce O. Boxberger, City Attorney
17 Dated this 17 day of December, 1985.
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Read the first time in full and on motion by Grestach, seconded by Dodd, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on _____, the _____ day of _____, 19_____, at _____ o'clock _____ M., E. S.

DATE: 12-10-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Grestach, seconded by J. Lee, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	—	—	—	—
<u>BRADBURY</u>	<u>✓</u>	—	—	—	—
<u>BURNS</u>	<u>✓</u>	—	—	—	—
<u>EISBART</u>	<u>✓</u>	—	—	—	—
<u>GiaQUINTA</u>	<u>✓</u>	—	—	—	—
<u>HENRY</u>	<u>✓</u>	—	—	—	—
<u>REDD</u>	<u>✓</u>	—	—	—	—
<u>SCHMIDT</u>	<u>✓</u>	—	—	—	—
<u>STIER</u>	<u>✓</u>	—	—	—	—
<u>TALARICO</u>	<u>✓</u>	—	—	—	—

DATE: 12-17-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. I-246-85.
on the 17th day of December, 1985.

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)
Mark E. GiaQuinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana,
on the 18th day of December, 1985,
at the hour of 10:00 o'clock A.M. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 18th day of December,
1985, at the hour of 2nd o'clock P.M. M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

1 BILL NO. S-85-12- /8

2 SPECIAL ORDINANCE NO. S-_____

3 ORDINANCE AUTHORIZING THE CITY OF
4 FORT WAYNE TO ISSUE ITS CITY OF FORT WAYNE, INDIANA
5 FLOATING RATE WEEKLY DEMAND INDUSTRIAL DEVELOPMENT
REVENUE BONDS (WAYNE COLISEUM PROJECT) SERIES 1985
AND APPROVING OTHER ACTIONS IN RESPECT THERETO.

6 WHEREAS, the City of Fort Wayne, Indiana is a "unit" as such
7 is defined by Indiana Law and is authorized by 36-7-11.9-1 and
8 36-7-12-1 et seq (the Act) and has established a Department of
9 Economic Development known as the Fort Wayne Economic Development
10 Commission, and further is authorized by the Act to issue bonds
11 for the purposes described in the Act; and

12 WHEREAS, the Fort Wayne Economic Development Commission has
13 rendered its project report for the Wayne Coliseum Project
14 regarding the financing of proposed economic development facili-
ties for Wayne Coliseum Limited Partnership and the Allen County
15 Plan Commission has commented favorably thereon; and

16 WHEREAS, the Fort Wayne Economic Development Commission con-
ducted a public hearing on December 5, 1985, and also adopted a
17 Resolution on December 5, 1985, which Resolution has been
transmitted to this Common Council, finding that the financing of
18 certain economic development facilities for Wayne Coliseum
19 Limited Partnership complies with the purposes and provisions of
20 the Act and that such financing will be of benefit to the health
21 and welfare of the City of Fort Wayne and its citizens, and
22 further finding as follows:

- 23 a. The financing will not create an unjustified competitive
disadvantage with other companies within the area;
- 24 b. The financing will stimulate the local economy;
- 25 c. The financing will result in creation or retention of a
significant number of jobs; and
- 26 d. The project being financed would not be undertaken
without tax exempt financing; and

1 e. The Economic Development Commission considered the issue
2 of adverse competitive effect and, based on special findings of
3 fact set forth in the resolution transmitted hereto, that the
4 facilities would not have an adverse competitive effect.

5 WHEREAS, the Fort Wayne Economic Development Commission has
6 approved and recommended the adoption of this form of Ordinance
7 by this Common Council and has approved the substantially final
8 form of and has transmitted for approval by the Common Council
9 the Loan Agreement, Indenture of Trust, Mortgage, Bond Purchase
10 Agreement, Preliminary Official Statement, and form of Bonds.

11 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE
12 CITY OF FORT WAYNE, INDIANA THAT:

13 SECTION 1. It is hereby found that the financing of the
14 economic development facilities referred to in the Loan
15 Agreement, Indenture of Trust, Mortgage, Bond Purchase Agreement,
16 Preliminary Official Statement, and Bonds approved by the Fort
17 Wayne Economic Development Commission and presented to the Common
18 Council, the issuance and sale of the revenue bonds, to be used
19 for the acquisition and construction of the economic development
20 facilities constituting the project and the assigning of a
21 security interest in the Loan Agreement and all proceeds derived
22 from the Loan Agreement to the Trustee complies with the purposes
23 and provisions of I.C. 36-7-11.9-1 and 36-7-12 and will be of
24 benefit to the health and welfare of the City of Fort Wayne and
25 its citizens.

26 SECTION 2. The economic development facilities will consist
27 of acquisition, construction, reconstruction and equipping of
28 certain manufacturing and warehousing facilities located at 2201
29 S. Coliseum Blvd. in Allen County, Indiana, for use by prospec-
30 tive tenants of the applicant and manufacturing, warehousing and
31 distribution of goods and ancillary services, together with refi-
32 nancing existing tax-exempt indebtedness on the facilities (the

1 "Project").

2 SECTION 3. At the public hearing held by the Fort Wayne
3 Economic Development Commission, the Commission considered
4 whether the economic development facilities would have an adverse
5 competitive effect on any similar facilities located in the City
6 of Fort Wayne, and found, based on special findings of fact set
7 forth in the Resolution transmitted hereto, that the facilities
8 would not have an adverse competitive effect. This Common
9 Council hereby confirms the findings set forth in the
10 Commission's Resolution, and concludes that the economic develop-
11 ment facilities will not have an adverse competitive effect on
12 any other similar facilities in the City of Fort Wayne, and the
13 facilities will be of benefit to the health and welfare of the
14 citizens of the City of Fort Wayne.

15 SECTION 4. The substantially final forms of the Loan
16 Agreement, Indenture of Trust, Mortgage, Bond Purchase Agreement,
17 Preliminary Official Statement, and Bonds, approved by the Fort
18 Wayne Economic Development Commission are hereby approved and all
19 such documents (herein collectively referred to as the "Financing
20 Agreement" referred to in I.C. 36-7-11.9 and 36-7-12), are hereby
21 approved, and all such documents shall be incorporated herein by
22 reference and shall be inserted in the minutes of the Common
23 Council and kept on file by the Clerk. In accordance with provi-
24 sions of I.C. 36-1-5-4 two (2) copies of all such documents are
25 on file in the office of the Clerk for public inspection.

26 SECTION 5. The City of Fort Wayne, Indiana shall issue its
27 City of Fort Wayne, Indiana Floating Rate Weekly Demand
28 Industrial Development Revenue Bonds, (Wayne Coliseum Project)
29 Series 1985, in the total principal amount of not to exceed
30 \$6,200,000.00, maturing, subject to prior redemption, on December
31 1, 2015 and subject to mandatory or optional redemption or
repurchase on the demand of the holder thereof as set forth in

1 the Bonds, Indenture of Trust and Bond Purchase Agreement, for
2 the purpose of procuring funds to pay the cost of acquisition and
3 construction of the economic development facilities as more par-
4 ticularly set out in the Loan Agreement, Indenture of Trust, and
5 Bond Purchase Agreement incorporated herein by reference, which
6 Bonds will be payable as to principal, premium, if any, and
7 interest from payments made by Wayne Coliseum Limited Partnership
8 under the Loan Agreement or as provided in the Letter of Credit
9 as provided for in the above-described documents. The Bonds will
10 be sold to E. F. Hutton & Company Inc. as Underwriter, New York,
11 New York, in fully registered form and may be assigned and trans-
12 ferred pursuant to the Bond Purchase Agreement, Bonds, and
13 Indenture of Trust; payment of principal and interest is payable
14 in lawful money of the United States of America to the Trustee.
15 The Bonds shall never constitute a general obligation of, an
16 indebtedness of, or a charge against the general credit of the
17 City of Fort Wayne, nor are the Bonds payable in any manner from
18 revenues raised by the taxing power of the City of Fort Wayne.

19 SECTION 6. The Mayor and Clerk are authorized and directed
20 to sell the Bonds to the purchasers thereof at a rate of interest
21 as described in the Bonds and the Indenture of Trust, with the
22 proviso that the interest rate may be converted to a fixed
23 interest rate under terms and provisions contained in the Bonds
24 and the Indenture of Trust, and further provided that in no event
25 will the interest rate borne by the Bonds exceed 15% per annum.

26 SECTION 7. The Mayor and Clerk are authorized and directed
27 to execute, attest, affix or imprint by any means the City seal
28 to the documents constituting the Financing Agreement approved
29 herein on behalf of the City and any other documents which may be
30 necessary or desirable to consummate the transaction, including
31 but not limited to the Official Statement, the Indenture, the
32 Inducement Letter, the Loan Agreement, the Letter of Credit and

1 the Bonds, the Mortgage, and such other documents as authorized
2 herein and may approve such other changes in the Loan Agreement,
3 the Indenture, the Bond Purchase Agreement, the Inducement
4 Letter, and such other documents as they may deem necessary or
5 advisable, including the initial interest rate. The signatures
6 of the Mayor and Clerk on the Bonds may be facsimile signatures.
7 The Clerk is authorized to arrange for delivery of the Bonds to
8 the Trustee, payment for the Bonds will be made to the Trustee
9 named in the Bond Purchase Agreement and, after such payment, the
10 Bonds will be delivered to E. F. Hutton & Company Inc., as
11 Underwriter. Payment for the Bonds shall be at a purchase price
12 of not less than 95% of the principal amount of the Bonds, the
13 actual price to be approved by the Mayor and Clerk. The Bonds
14 shall be initially dated as of December 1, 1985 or the date of
15 the first authentication and delivery as designated by the Mayor,
16 except as otherwise provided in the Indenture of Trust. Pursuant
17 to the Indenture the City hereby authorizes the Mayor, at the
18 time of closing, to appoint the Remarketing Agent, Indexing
19 Agent, Paying Agent, Trustee and/or Co-Trustee, and Registrar for
20 the Bonds.

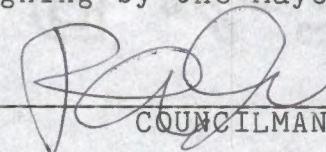
21 The Preliminary Official Statement and the final Official
22 Statement are hereby authorized to be distributed in the manner
23 and form as is approved by the City Attorney.

24 SECTION 8. The Bonds herein are issuable in initial denomi-
25 nations of \$100,000.00 or integral multiples thereof, except as
26 provided for in the Indenture upon conversion to a fixed interest
27 rate, at which time the Bonds shall be issuable in denominations
28 of \$5,000.00 or integral multiples thereof.

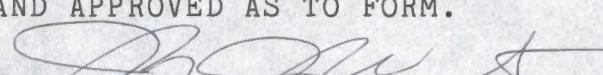
29 SECTION 9. The provisions of this Ordinance and the Bond
30 Purchase Agreement shall constitute a contract binding between
31 the City of Fort Wayne and the holders of the City of Fort Wayne,
32 Indiana Floating Rate Weekly Demand Industrial Development

1 Revenue Bonds (Wayne Coliseum Project) Series 1985 and after the
2 issuance of said Bonds, this Ordinance shall not be repealed or
3 amended in any respect which would adversely affect the rights of
4 such holders so long as said Bonds or the interest thereon
5 remains unpaid.

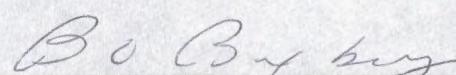
6 SECTION 9. This Ordinance shall be in full force and effect
7 from and after its passage and signing by the Mayor.

8 
9 COUNCILMAN

10 ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION
11 AND APPROVED AS TO FORM.

12 
John J. Wernet, Attorney for the
13 Fort Wayne Economic Development Commission
Dated this 9th day of December, 1985.

14 APPROVED AS TO FORM AND LEGALITY.

15 
16 Bruce O. Boxberger, City Attorney
17 Dated this 9th day of December, 1985.

BILL NO.

S-85-12-18

REPORT OF THE COMMITTEE ON

FINANCE

WE, YOUR COMMITTEE ON

FINANCE

REFERRED AN (ORDINANCE)

(RESOLUTION)

TO WHOM WAS

AUTHORIZING THE CITY OF FORT WAYNE TO ISSUE ITS CITY OF FORT
WAYNE TO ISSUE ITS CITY OF FORT WAYNE, INDIANA FLOATING RATE WEEKLY
DEMAND INDUSTRIAL DEVELOPMENT REVENUE BONDS (WAYNE COLISEUM PROJECT)
SERIES 1985 AND APPROVING OTHER ACTIONS IN RESPECT THERETO

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)

(RESOLUTION)

DO PASS

DO NOT PASS

WITHDRAWN

YES

NO

BEN A. EISBART
CHAIRMAN

JANET G. BRADBURY
VICE CHAIRWOMAN

SAMUEL J. TALARICO

THOMAS C. HENRY

JAMES S. STIER

CONCURRED IN

12-17-85

SANDRA E. KENNEDY
CITY CLERK